

**POLICY AND PROCEDURE**

<b><u>POLICY TITLE:</u></b> DSAMH Client Complaint and Grievance Policy	<b><u>POLICY #:</u></b> DSAMH026
<b><u>PREPARED BY:</u></b> PCWFD	<b><u>DATE ISSUED:</u></b> 5/24/2022
<b><u>RELATED POLICIES:</u></b> DSAMH 003 Appeal Policy DSAMH 019 Quality Assurance Audit Policy DSAMH 016 Risk Management Protocols DSAMH 029 Incident Reporting Policy	<b><u>REFERENCE:</u></b> 6001 Substance Abuse Facility Licensing Standards: 7.1 Client Rights
<b><u>DATES REVIEWED:</u></b> 5/24/2022 7/25/2023	<b><u>DATES REVISED:</u></b> 3/22/2022 4/26/2023
<b><u>APPROVED BY:</u></b>   8/23/2023   1:57 PM PDT	<b><u>NOTES:</u></b> <input type="checkbox"/> DSAMH Internal Policy <input checked="" type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input type="checkbox"/> Targeted Use Policy (Defined in scope)

**I. PURPOSE:**

To ensure all clients served by DSAMH facilities, DSAMH-contracted, DSAMH-certified, and DSAMH-licensed sites and community stakeholders are aware of the process and have access to file a complaint or grievance.

**II. POLICY STATEMENT:**

DSAMH requires all DSAMH facilities, DSAMH-contracted, DSAMH-certified, and DSAMH-licensed sites to have a complaint and grievance procedure available to clients and the procedure must be posted in a prominent location for public viewing.

**III. DEFINITIONS:**

**“Americans with Disabilities Act” or “ADA”** means the civil rights law that prohibits discrimination based on disability.

**“CBHSD”** means the Bureau of Community Behavioral Health and Social Determinants.

**“Complainant”** refers to DSAMH client or community stakeholder initiating complaint.

**“DSAMH Appeal”** means a formal process by which a client may formally appeal authorization decisions with DSAMH under the Fair Hearing Practice and Procedure Act set forth by Delaware Medicaid. See DSAMH 003 Provider Appeals Policy.

**“DSAMH Client”** means all clients served by DSAMH-operated facilities, DSAMH-contracted, DSAMH-certified, and DSAMH-licensed sites.

**“DSAMH Complaint”** means any general oral or written expression by a DSAMH client or community stakeholder expressing dissatisfaction, concern, or protest concerning DSAMH-operated facilities, DSAMH-contracted facilities, or entities under the authority of DSAMH regulatory authority. Examples of complaints include: disagreements with medication prescribed, dissatisfaction with general services or delay in services, questioning a specific policy, or general dissatisfaction or conflict with an agency.

**“DSAMH Grievance”** means any oral or written expression by a DSAMH client or community stakeholder that alleges a violation of the individual rights of a client, as defined by State statutes, federal law, and case law concerning DSAMH facilities, DSAMH contracted facilities, or entities under the authority of DSAMH regulatory authority. Grievances may also include incidents where the client believes that their rights have been violated, in that they feel they have been treated in a way that does not meet their expected standards of care. Grievances may also be other serious violations that rise above the threshold of a general complaint. Examples of grievances include: violated rights provided by law or DSAMH directives or policies, failed to provide services authorized by a treatment plan, failed to reasonably intervene when the client’s rights were put at risk by another client or patient in a setting controlled by the provider, or failed to treat the client or patient in a humane and dignified manner.

**“Patient Protection and Affordable Care Act” or “ACA”** means the law that prohibits healthcare providers from discriminating against someone on the basis of race, color, national origin, age, disability or sex (including pregnancy, sexual orientation, and gender identity), and requiring them to provide equal access to programs and services to people whose primary language is not English.

**“PCWFD”** means the Bureau of Policy, Compliance, and Work Force Development.

**“Resolution”** means DSAMH has taken every appropriate, measurable step to address the complaint.

IV. **SCOPE:**

This policy is for all DSAMH-operated programs, DSAMH-contracted, DSAMH-certified, and DSAMH-licensed agencies. This policy does not replace or eliminate provider requirements for any State or federal requirements or regulations not cited in this policy. Any complaint received due to a DSAMH-initiated denial of service will be addressed by the process defined in DSAMH 003 Appeal Policy.

V. **PROCEDURES/RESPONSIBILITIES:**

A. Generally, complaints may be resolved between the agency and the complainant without need for external reporting or mediation, if the complainant is agreeable to working out concerns about service delivery directly with provider.

- B. The following procedures and responsibilities must be published and adhered to by all DSAMH-operated programs. DSAMH-contracted, DSAMH-certified, and DSAMH-licensed agencies must have a similar process that meets or exceeds the expectations defined below:
1. **Posting policy:** All sites must post information on how to file a complaint or grievance in a public area accessible to clients. Posting must include a minimum of two avenues for submitting the complaint or grievance, in addition to the DSAMH Consumer Issue Resolution Hotline (**855-649-7944**) and **DSAMHresolution@delaware.gov**. Options must include the ability to call or provide written complaints or grievances. All programs and agencies must also have a process to inform the client of their rights, including the right to file a complaint or grievance.
  2. **Assessment and management of complaint:** The assessment of the complaint and the mode of presentation will determine how the complaint will be processed. All complainants are to be treated equally. DSAMH encourages clients to attempt to resolve the complaint directly at the level of care where their concern originates. Clients may present their original complaint anywhere within DSAMH's system. The flow of the processing will also vary dependent on where the complaint is first presented, but anyone receiving a complaint should follow the guidelines below. The original complaint may be made in person, by phone, or by written communication, anywhere within DSAMH's system of care. Below is a general guide, but in all cases, if the consumer is dissatisfied, a supervisor must be consulted for guidance and support. At a minimum, the receiver of the information will assess the issue to determine next steps:
    - a. If the complaint is general, it will be resolved at the staff level.
    - b. Clients shall be informed of the limits of confidentiality, as appropriate.
    - c. Staff may assist the client in identifying their preferred outcome, without guaranteeing any specific resolution.
    - d. If a client makes a complaint regarding Institutes for Mental Disease (IMD), otherwise known as Acute Care Psychiatric Hospitals, all attempts should be made to resolve the issue directly between the client and the hospital at the time of the complaint. All grievances regarding IMDs shall be referred to the [Division of Health Care Quality \(DHCQ\)](#). It is also possible to file grievances with The [Joint Commission \(TJC\)](#) or with the [Commission on Accreditation of Rehabilitation Facilities \(CARF\)](#), for all facilities accredited by the JC or CARF. This does not prevent advocacy for existing DSAMH clients through collaboration with CBHSD and the IMD, depending on the issue.
  3. **Management of grievance:**
    - a. A complaint elevates to a grievance when it involves health and safety concerns. Imminent risk of health and safety to a client or others shall require immediate intervention with clinical supervisor involvement (this may include duty to warn, or abuse and neglect reporting laws). The supervisor must immediately address these issues, utilizing all available resources in compliance with the program's policies and procedures. Staff may remain engaged with the individual at the direction of the supervisor.
    - b. In compliance with DSAMH community incident reporting policy, a violation of client's rights is deemed a grievance that requires immediate supervisory consult. Violation of client's rights shall be reported via the DSAMH incident reporting process and to appropriate authorities. Areas of possible grievance may include ADA and ACA requirements and all Delaware mandatory reporting laws. Mandatory reporting is required from the primary source of the alleged violation.
    - c. If the grievance includes issues that may threaten the public's confidence in Delaware's behavioral health system, involves government relations, media inquiries,

or legal representation, this requires supervisory guidance, immediate notification of the respective member of leadership, and potential involvement of DSAMH media relations, DSAMH legal representative, and DSAMH executive management.

- d. Grievances related to denials of service shall follow the process as outlined in DSAMH003 and the Medicaid Fair Hearing process.

4. **Points of contact:**

- a. **Agency-Based Grievance (CBHSD Site):** Any staff can manage a complaint, and if staff are unable to resolve the issue, it will be elevated to the program supervisor/administrator. If incident reports are required, the program supervisor will ensure the most appropriate staff or service agency submits an incident report. The program administrator must maintain a confidential file on all submitted complaints/grievances and actions taken to resolve.
- b. **CBHSD Consumer Issue Resolution Hotline:** DSAMH CBHSD Consumer Issue Resolution Hotline provides a safe venue to clients to present concerns outside of the treatment setting by calling (855) 649-7944 or emailing DSAMHresolution@delaware.gov. The hotline is staffed by a Peer Specialist response team and is not intended for emergency situations. The staff can resolve informational and advocacy related concerns. They will assist the client in navigating the system, as well as elevating issues to other Bureaus or DSAMH Administration, as needed. The hotline takes an advocacy and support approach and acts as a liaison for both the complainant and the DSAMH system of care.
- c. **PCWFD Bureau:** Grievances regarding the safety, health, or well-being of a client shall be reported to Risk Management by completing an incident report. PCWFD will investigate the complaint per DSAMH016 Risk Management Protocols and DSAMH029 Incident Reporting. Any violation of these standards can lead to program sanction and citations requiring a Corrective Action Plan. Follow up of any program standards deficiencies that may have led to a Corrective Action Plan may be monitored and tracked during the licensure year. Licensed and/or Certified Providers have additional responsibilities as defined in Delaware Code or DSAMH policy.
- d. **CBHSD Bureau Contract Management:** CBHSD Bureau meets with providers individually and with the provider community. Complaints that are resolvable through CBHSD relationships and/or by contractual obligation will be directed to CBHSD for resolution.
- e. **Office of the Medical Director:** When necessary, the Office of the Medical Director is consulted on complex cases that present clinical ambiguity, medical necessity concerns, or other complex situations that cannot be effectively resolved by CBHSD and PCWFD.

5. **Complaint/Grievance Resolution:** The complainant is the primary party throughout the process. Upon receipt of the complaint, DSAMH, DSAMH-contracted, DSAMH-certified, or DSAMH-licensed agency will respond within two (2) business days. Feedback is required until the issue is resolved to ensure the complainant believes that DSAMH has exhausted all reasonable efforts. Resolving the issue may not mean meeting all of the client's expectations.

- a. Complaint resolution includes meeting the complainant's expectations where possible, and explaining areas where expectations cannot be met. Complaints shall be resolved within thirty (30) days of DSAMH's receipt.
- b. If possible, in areas where complainant expectations cannot be met, offering alternatives may be beneficial.
- c. At all times, no matter which agency or bureau takes the lead, one primary person

must be designated to keep the complainant informed of progress in resolving complaint.

6. **Documentation:** The primary site responding to grievance will document resolution as appropriate:
  - a. A written resolution for all grievances shall be filed with the original grievance within thirty (30) days. Site supervisor must include any critical communications attached to the grievance in their grievance file.
  - b. CBHSD Consumer Issue Resolution Hotline has a system for documenting and closing all received complaints.
  - c. PCWFD has a system in place for Risk Management tracking, incident reports, and for-cause audits related to complaints.
7. **Mandatory Reporting/Health, Safety and Well-being:** Filing a complaint or an incident report does not alleviate provider or first responder obligation to follow all mandatory reporting laws or initiate interventions to address health, safety, and well-being concerns. All staff must be attuned to these issues when listening to or receiving a client complaint.

VI. **POLICY LIFESPAN:** This policy will be reviewed annually and updated as needed.

VII. **RESOURCES:**

- A. DSAMH026A Sample Posting
- B. DSAMH026B Client Rights and Responsibilities
- C. DSAMH026C Complaint Response Letter